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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,336	10/31/2001	Stanley J. Kopecky	112703-208	5203

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EXAMINER

ARNOLD III, TROY G

ART UNIT PAPER NUMBER

3728

DATE MAILED: 08/11/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,336

Applicant(s)

KOPECKY, STANLEY J.

Examiner

Troy Arnold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-11,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1-3,11,13 and 14 is/are rejected.
- 7) ☒ Claim(s) 4,5,7,9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dittgen in view of Sundhar et al. Dittgen teaches all the limitations of claim 1 except a housing. Sundhar teaches a housing 100. It would have been obvious to one of ordinary skill in the art at the time the invention was made to put the sheet and products of Dittgen inside the housing of Sundhar in order to better preserve the freshness of the consumable products of Dittgen. Dittgen teaches consumable products (cigars), a sheet 1,2,3,4,5,6, where products are attached to either side of the sheet (each adjacent sheet holds a cigar), and the products would be configured in the housing of Sundhar so that a consumer could grasp them as claimed. Sundhar clearly teaches the limitations of claim 2. Dittgen clearly teaches the limitations of claim 11. Regarding claim 13, plural sheets 1,2,3,4,5,6 will be inside the housing. Claim 14 is taught in the same manner noted regarding claim 1 above.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dittgen as modified regarding claim 1, further in view of Official Notice. Dittgen as modified regarding claim 1 teaches all the limitations of claim 3 except a cutout in one of the

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walls of the housing. Official Notice is taken that containers with cutouts in a wall are old obvious and well known in the packaging arts. Cigarette packs are just one example. It would have been obvious in view of Official Notice taken to one of ordinary skill in the art at the time the invention was made to put Dittgen's sheet and products into a housing with a cutout in a wall for the purpose of protecting the products and at the same time allowing for easy removal of the product.

Allowable Subject Matter

Claim 6 is allowed.

Claims 4-5, 7, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Regarding the restriction requirement made final in paper No. 9, and the comments at the top of page 4, it is maintained that there would have been a serious burden on the Examiner had the restriction requirement(s) not been made. Regarding the remarks in the second paragraph on page 4, the Examiner appreciates the Applicant making clear for the record his interpretation of the word "attached." The rest of the remarks are directed to the old grounds of rejection.

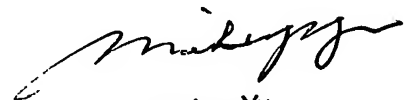
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is 703-305-0621. The examiner can normally be reached on Tuesday-Thursday, 9:30-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-0302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Troy Arnold
Examiner
Art Unit 3728

TGA
July 31, 2003



Mickey Yu
Supervisory Patent Examiner
Group 3700